

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS  
LIABILITY LITIGATION

MDL No. 2419  
Dkt. No. 1:13-md-2419 (RWZ)

THIS DOCUMENT RELATES TO:

All Actions

**PLAINTIFFS' STEERING COMMITTEE'S ("PSC") AMENDED<sup>1</sup> FILING RELATED  
TO PSC, ST. THOMAS ENTITIES, PREMIER DEFENDANTS AND BOX HILL  
DEFENDANTS' PROPOSED PRETRIAL SCHEDULES**

At the May 28, 2015 status conference, the Court requested that the Plaintiff Steering Committee ("PSC") create charts reflecting the current proposed pre-trial schedules. For the convenience of all parties and the Court, the charts below set forth the proposed pre-trial schedules for the Premier Defendants,<sup>2</sup> St. Thomas Entities,<sup>3</sup> Tennessee Clinic Defendants<sup>4</sup> and Box Hill Defendants,<sup>5</sup> respectively.

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<sup>1</sup> This amended filing clarifies that the PSC's position as to the close of common discovery as it relates to settling defendants and third parties has not changed; the PSC's proposed deadline remains August 1, 2015.

<sup>2</sup> "Premier Defendants" includes Premier Orthopedic Associates Surgical Ctr., Premier Orthopedics Associates Surgical Center, LLC, Premier Orthopaedic and Sports Medicine Associates of South Jersey, LLC, d/b/a Premier Orthopaedic and Sports Medicine Associates, Kimberly Yvette Smith, M.D., a/k/a Kimberly Yvette Smith-Martin, M.D., Thomas Dwyer, M.D., Richard C. DiVerniero, M.D., John Catalano, M.D., and Jeffrey Strauss, M.D.

<sup>3</sup> "Saint Thomas Entities" include Saint Thomas West Hospital, formerly known as St. Thomas Hospital, Saint Thomas Network, and Saint Thomas Health.

<sup>4</sup> "Tennessee Clinic Defendants" include Saint Thomas Outpatient Neurosurgical Center, LLC, Howell Allen Clinic, PC, John Culclasure, MD, Debra Schamberg, RN, and Vaughan Allen, MD. The PSC specifically excludes Specialty Surgery Center, PLLC, Kenneth R. Lister, MD, Lister, MD, PC, and Donald Jones, MD from its Proposed Trial Schedule, as the plaintiffs' complaints against the Specialty Surgery Center, PLLC entity are in the process of being amended to add additional related defendants.

<sup>5</sup> "Box Hill Defendants" includes Box Hill Surgery Systems, LLC, Ritu T. Bhambhani, M.D., and Ritu T. Bhambhani, M.D., LLC.

**St. Thomas Entities and Tennessee Clinic Defendants:**

<b>Event</b>	<b>MDL Order No. 9 Schedule<sup>6</sup></b>	<b>PSC's Proposed Trial Schedule<sup>7</sup></b>	<b>Saint Thomas Entities' Proposed Trial Schedule<sup>8</sup></b>	<b>Tennessee Clinic Defendants' Proposed Trial Schedule<sup>9</sup></b>
Close of Common Fact Discovery as to settling defendants and common third parties	6/15/15	8/1/15	9/14/15*	8/18/15
Close of Common Fact Discovery as to the Tennessee Clinic Cases	6/15/15	8/1/15	N/A	8/18/15
Close of Common Fact Discovery as to the St. Thomas Cases	6/15/15	8/1/15	9/14/15*	N/A
Initial Trial Pool Cases selection exchanged in writing between the parties	N/A	≤ 10 days after entry of Order	30 days after bellwether order entered: Exchanging lists and identifying litigation variables in briefing	15 days after bellwether order entered
Deadline for Parties to file Notice of Position on Venue and Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach	N/A	≤ 15 days after entry of Order	15 days after bellwether order entered	15 days after bellwether order entered
Completion of all Case-Specific fact discovery for Initial Trial Pool cases	N/A	9/15/15	Limited Case-Specific discovery completed within 120 days of bellwether order	5/16/16 [for four trial selections] <sup>10</sup>

<sup>6</sup> See Dkt. No. 1852<sup>7</sup> See Dkt. No. 1900<sup>8</sup> See Dkt. Nos. 1753, 1753-1, 1870 & 1870-1.<sup>9</sup> See Dkt. No. 1958-1<sup>10</sup> The Tennessee Clinic Defendants' bellwether protocol proposal is at Dkt. No. 1958-2 and sets out a process of selecting sixteen cases for the trial pool, exchanging strikes, and then tracking four toward trial.

Parties shall file submissions as to the order in which the eight Initial Trial Pool Cases should be tried and/or remanded to the transferor courts. The Parties are directed to file briefs, not to exceed 5 pages, with reason for selections and order.	N/A	10/1/15	N/A	N/A
Court will select the order in which the Initial Trial Pool Cases will be tried and/or remanded, designate the first 2 cases to be tried and/or remanded,	N/A	10/15/15	N/A	N/A
PSC and Healthcare Defendants entitled to strike up to two cases each from Initial Bellwether Pool	N/A	N/A	15 days after the completion of Limited Case Specific discovery	N/A
PSC and Healthcare Defendants meet and confer as to possible agreed list of four bellwether cases for initial trials	N/A	N/A	30 days after completion of Limited Case Specific discovery	N/A
PSC and Healthcare Defendants submit agreed upon list of four bellwether cases for initial trials or submit proposals for four cases with briefing on reasons for selection	N/A	N/A	45 days after completion of Limited Case Specific discovery	N/A
Parties shall disclose experts who will testify as to Case-Specific Issues for the First Two Trial Case Picks along with at least three proposed deposition dates for each expert.	7/15/15	10/25/15	Court to set scheduling order after selection of Bellwether Cases for Initial Trials	6/15/16 – Plaintiff  7/15/16 - Defendants
Parties shall disclose rebuttal Case-Specific Experts for the First Two	8/14/15	11/10/15	Court to set scheduling order after selection of	N/A

Trial Case Picks.			Bellwether Cases for Initial Trials	
Plaintiffs shall file motion for leave to file Rebuttal Expert Disclosures	9/14/15	N/A	Court to set scheduling order after selection of Bellwether Cases for Initial Trials	N/A
Parties shall complete depositions of Case-Specific Issues experts (which will begin after rebuttal reports, if any, are served)	10/13/15	12/15/15	Court to set scheduling order after selection of Bellwether Cases for Initial Trials	9/1/16
Case-Specific dispositive motions and Daubert motions filed	12/12/15	12/21/15	Court to set scheduling order after selection of Bellwether Cases for Initial Trials	N/A
Oppositions to Case-Specific dispositive motions and Daubert motions filed	1/11/16	1/5/16	Court to set scheduling order after selection of Bellwether Cases for Initial Trials	N/A
Replies to Case-Specific dispositive motions and Daubert motions filed	2/10/16	1/15/16	Court to set scheduling order after selection of Bellwether Cases for Initial Trials	N/A
Hearings on case-specific dispositive motions and Daubert motions	N/A	As determined by the Court	Court to set scheduling order after selection of Bellwether Cases for Initial Trials	N/A
Cases shall be trial-ready	N/A	2/1/16	October 2016*	12/1/16 [first case to be trial ready]

**Premier:**

<b>Event</b>	<b>MDL Order No. 9 Schedule<sup>11</sup></b>	<b>PSC's Proposed Trial Schedule<sup>12</sup></b>	<b>Premier's Proposed Trial Schedule<sup>13</sup></b>
Close of Common Fact Discovery as to settling defendants and common third parties	6/15/15	8/31/15	12/15/15
Close of Common as to the Premier cases; Meet and confer on potential bellwether process	06/15/15	11/15/15	12/15/15
Close of Case Specific Bellwether Discovery	N/A	01/15/16	02/15/16
Initial Expert Disclosures and Proffer of Deposition Dates	07/15/15	01/31/16	03/15/16
Rebuttal Expert Disclosures and Proffer of Deposition Dates	08/14/15	04/04/16	05/01/16
Plaintiffs shall file motion for leave to file Rebuttal Expert Disclosures	9/14/15	N/A	N/A
Deadline For Expert Depositions	10/13/15	04/23/16	09/01/16

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<sup>11</sup> See Dkt. No. 1852

<sup>12</sup> See Dkt. No. 1900

<sup>13</sup> See Dkt. No. 1950

Dispositive Motions and <i>Daubert</i> Motions	12/12/2015	05/21/16	10/15/16
Oppositions to Dispositive Motions and <i>Daubert</i> Motions	1/11/2016	06/05/16	11/01/16
Replies in Support of Dispositive Motions and <i>Daubert</i> Motions	2/10/2016	06/19/16	11/15/16
Hearing on Dispositive Motions and <i>Daubert</i> Motions	N/A	07/02/16	December 2016
Final Pre-Trial Hearing	N/A	07/25/16	January 2017
Trial	N/A	08/01/16	February 2017

**Box Hill:**

<b>Event</b>	<b>MDL Order No. 9 Schedule<sup>14</sup></b>	<b>PSC's Proposed Trial Schedule<sup>15</sup></b>	<b>Box Hill's Proposed Trial Schedule<sup>16</sup></b>
Close of Common Fact Discovery as to settling defendants and common third parties	6/15/15	8/1/15	4/1/16
Close of Common Issue Discovery as to Box Hill cases	6/15/15	1/22/16	4/1/16
Bellwether Proposal submitted to Court	N/A	N/A	3/1/16
Responses to Bellwether Proposals	N/A	N/A	3/16/16
Close of Case Specific Bellwether Discovery	N/A	1/22/16	6/1/16
Plaintiff's Initial Expert Disclosures and reports	7/15/15	2/22/16	5/15/16
Defense Rebuttal expert reports	8/14/15	3/23/16	7/1/16
Plaintiffs shall file motion for leave to file Rebuttal Expert Disclosures	9/14/15	N/A	N/A

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<sup>14</sup> See Dkt. No. 1852

<sup>15</sup> See Dkt. No. 1900

<sup>16</sup> See Dkt. No. 1949-2

Deadline for Expert Depositions	10/13/15	5/23/16	11/1/16
Dispositive Motions and Daubert Motions	12/12/15	6/22/16	12/15/16
Oppositions to Dispositive Motions and Daubert Motions filed	1/11/16	7/7/16	1/2/17
Replies in Support of Dispositive Motions and Daubert Motions filed	2/10/16	7/22/16	1/15/17
Hearing on Dispositive Motions and Daubert Motions	N/A	8/8/16	February 2017
Final Pre-trial Hearing	N/A	9/7/16	March 2017
Case are Trial Ready	N/A	10/3/16	April 2017

Date: June 23, 2015

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I, Kimberly A. Dougherty, hereby certify that I caused a copy of the above *Plaintiffs' Steering Committee's ("PSC") Amended Filing Related to the PSC, St. Thomas Entities, Tennessee Clinic Defendants, Premier Defendants and Box Hill Defendants' Proposed Pretrial Schedules* to be filed electronically via the Court's electronic filing system. Those attorneys who are registered with the Court's electronic filing system may access these filings through the Court's system, and notice of these filings will be sent to these parties by operation of the Court's electronic filing system.

Dated: June 23, 2015

/s/ Kimberly A. Dougherty  
Kimberly A. Dougherty, Esq.